



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/539,870	12/05/2005	Takamasa Iwaki	1083-9	6383
7590 01/23/2007 Jack Schwartz & Associates Suite 1510 1350 Broadway New York, NY 10018			EXAMINER NGUYEN, SON T	
			ART UNIT 3643	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE			MAIL DATE	DELIVERY MODE
3 MONTHS			01/23/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/539,870

Applicant(s)

IWAKI ET AL.

Examiner

Son T. Nguyen

Art Unit

3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 June 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

SON T. NGUYEN
PRIMARY EXAMINER

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 9/19/05, 3/20/06
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. **Claims 2-5,7-12** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims are unclear because they appear to be claiming properties of the sheet rather than the structures. In addition, the claims seem to claim the properties twice. For example, claim 2 states "comprising a size", which this size is already claimed in claim 1 so is this "a size" from another sheet or the same sheet that display the covering abdomen and head properties? It would be better to rewrite claim 2 to state, but not limiting to, "2. The floor mat according to claim 1, wherein the size of said sheet adapted to cover at least the abdomen and the head of said small animals". For claim 3, it appears that there is no further structure of the sheet is being claimed. Again, it is suggested, but not limiting to, that Applicant rewrite claim 3 to state, for example, "3. The floor mat according to claim 1 wherein the sheet has water absorption property and deodorization property". For claim 4, same reasoning as that of claims 2-3, the claim needs to be rewritten for a more clear understanding of the property of the sheet. For claim 5, it is uncertain if a new sheet is being claimed in addition to the already claimed sheet in claim 1 because the claim language states "an improved cellulose...in a shape of sheet" which does not appears to tie in to any element already claimed. In addition, the phrase "an improved cellulose fabric wherein

Art Unit: 3643

carboxyl group-introduced cellulose" is unclear. For claims 7-12, same reasoning as the above claims, in which the claims need to be rewritten for a more clear understanding of the property of the sheet. For claim 7, the claim appears to be a product-by-process claim, which is not limited to the manipulations of the recited step(s), only the structure implied by the steps; "even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production or use. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process." *In re Thorpe*, 777 F.2d 695, 227 USPQ 964. See MPEP § 2113. How the mat is laid upon the floor of the box by folding the sheet is a process and not a structure of the product.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. **Claims 1-4,6-7,9-10,12** are rejected under 35 U.S.C. 102(b) as being anticipated by Walker (5819688).

For claims 1-2,6, Walker teaches a small animal rearing cage 20,22 for housing and rearing small animals, said small animal rearing cage comprising: a rearing box having a floor 22 and a wall 20 provided at a circumference of said floor; a floor mat M

Art Unit: 3643

laid in a small animals rearing cage for housing and rearing small animals, said floor mat is a sheet comprising a temperature holding property to a degree that can keep the body temperature of said small animals (the material used in Walker is the same material used in applicant, thus, the Walker material has temperature holding property; also, the mat of Walker can be an insulation to the animal laid thereon), a flexibility to a degree that can wrap the body of said small animals (col. 5, line 36, "pliable" and col. 6, lines 5-10, the mat can be folded, which is flexible to a degree to allow wrapping of the animal), and a size that covers at least the entire abdomen of said small animals (the mat covers the whole container 20, therefore, a small animal laying thereon will be covered by the mat from head to toes).

For claims 3,9, Walker further teaches the sheet having water absorption property and deodorization property (col. 4, lines 45-55, col. 5, line 36).

For claims 4,10,12, Walker further teaches the sheet having tearing resistance (col. 5, lines 36, "strength").

For claim 7, Walker teaches that the mat is pliable and can be folded if one wishes to do so in the cage to double up. Note the 112 rejection above for product by process.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

Art Unit: 3643

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 5,8,11** are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker (as above).

For claim 5, Walker teaches cellulose material formed into a shape of the sheet but is silent about an improved cellulose fabric wherein carboxyl group-introduced cellulose. It would have been obvious to one having ordinary skill in the art at the time the invention was made to manufacture the cellulose material of Walker out of an improved cellulose fabric wherein carboxyl group-introduced cellulose, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious choice. See *Sinclair & Carroll Co. v. Interchemical Corp.*, 325 U.S. 327, 65 USPQ 297 (1945) and *In re Leshin*, 125 USPQ 416.

For claims 8,11, Walker states in col. 4, lines 30-34, that the mat can be any shape and size. However, Walker does not specifically state that the floor mat is a sheet larger in size than the floor area of said rearing box. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the mat of Walker with a dimension that is larger in size than the floor area of the rearing box, since it has been held that where routine testing and general experimental conditions are present, discovering the optimum or workable ranges/sizes until the desired effect is achieved involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

Art Unit: 3643

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son T. Nguyen whose telephone number is 571-272-6889. The examiner can normally be reached on Mon-Thu from 10:00am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 571-272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Son T Nguyen
Primary Examiner
AU 3643